Deseret News Extra.

GREAT SALT LAKE CITY, SATURDAY, MARCH 26, 1859.

UNITED STATES DISTRICT COURT.

UNITED STATES TROOPS.

We lay before our readers the following petitions and correspondence relative to the occupation of the Court House and adjoining grounds, by a detachment of United States troops during the session of the court which commenced at Provo, the 8th of March inst.

While the judge was delivering his charge to the grand jury, at the opening of the court, in the house which had been procured by the county court of Utah county, the United States marshal having made no provision therefor, a detachment of United States infantry from Camp Floyd, about 100 in number, under the command of Capt. Heath, entered and encamped upon the adjoining grounds, belonging to the corporation of the city of Provo, without permission, and to the astonishment of the people, who were not a little surprised at the military occupation of their city.

The presence of a drunken and licentious soldiery, camp followers and attachees is an annoyance in any city, and, in this case, it was justly considered an outrage, as no disorder had occurred; no officer had been resisted; consequently there had been no occasion for requiring even a posse comitatus of citizens, which, according to instructions from the Department to the Governor of the Territory and the commanding General of the army, was to be resorted to in all cases, before the army of the United States, or any portion thereof, stationed in this Territory, was to be employed for the purpose of aiding in executing the laws.

On the 10th inst. the following petition was presented to the city council, signed by over 500 citizens of Provo:—

MARCH 10, 1859.

To the Honorable the Mayor and City Council of the City of Provo:—

GENTLEMEN—We the undersigned feeling ourselves aggrieved and outraged by the appearance of a military force in our peaceful city, surrounding the court and investing the halls of justice, beg leave respectfully to represent to your honorable body our views and feelings in relation to what we regard a high handed outrage, a direct infringement upon the rights of American citizens and a gross violation of our liberties and municipal immunities.

Whereas the Honorable John Cradlebaugh, Associate Justice of the Supreme Court of the U. S. and ex-officio Judge of the Second Judicial District of the Territory of Utah, presiding, in his charge to the grand jury stated, "There are some troops here; perhaps it is an unusual thing for them to be here; I knew that there were those who were guilty out by the camp and also that there were many guilty around here of numerous offences. I was informed that there was no prison here and these troops were sent by the commanding General at my request to take care of prisoners now in custody and not to interfere with any one. They are here to take care of the prisoners and to preserve the peace. If prisoners are brought here they will be taken care of and their whole authority is to detain those prisoners in custody that are taken prisoners until they are called for by the court and they have no power beyond that:"

Whereas the above statement of his Honor the Judge, in relation to there being no jail here, is an error, for it is well known to all our citizens that we have one, and that the civil officers, both of the city and county, hold themselves in readiness at all times to secure and take care of prisoners; and,

Whereas the Judge says that these troops were sent by the commanding General at his request, we can only look upon it that he is either afraid of his own personal safety, or that they are here to intimidate private citizens, witnesses and jurors, and to pervert justice. It is impossible to believe the first, and the quartering of officers in an adjoining room under that of the jury, with only a slight ceiling between, and the surrounding the court with soldiers, looks like the latter.

The Judge has truly said it is an "unusual thing," for never has such an outrage been committed on peaceable citizens of the United States as that of a grand jury being placed under military espionage, nor ever before has judicial terrorism enacted such a climax as to seek to coerce a grand jury to find presentments under fear of bristling bayonets, nor ever have witnesses been intimidated by the presentation of judicial federal steel:

And whereas we regard his Honor's statement, that "they are here to take care of the prisoners and to preserve the peace"—the first as being an attack upon the fidelity of our civil officers, and the second a direct insult to the inhabitants of this city—we would respectfully represent that we revere and uphold the laws and institutions of our common country and all officers and official acts, where they confine themselves within the limits of the law, constitution and custom; but when the rights of American citizens are wantonly trampled upon and it is sought to desecrate the law by the terrorism of sword and bayonet, we look upon such characters as beneath our contempt and feel ourselves called upon to remonstrate against such indignities:

We therefore request your honorable body to order the removal of these troops from our midst

Upon the receipt of this petition the city council addressed the following to Judge Cradlebaugh:—

PROVO, March 11, 1859.

To the Honorable John Cradlebaugh, Associate Justice of the Supreme Court of the United States for Utah Territory and ex-officio Judge of the 2d Judicial District.

Your memorialists, the mayor and council of Provo city, beg leave respectfully to represent that,

WHEREAS, The city council have received petitions from the various wards of the city representing that a detachment of the United States troops for several days past have been encamped on the seminary lot, the officers occupying the west lower room of the seminary building without the consent of the council or citizens of this city, and to the no small annoyance of the community, tending directly to intimidate those persons who have occasion to attend the District Court, now in session in the seminary, and also, rendering it exceedingly difficult for the officers of the city to preserve the peace between the unruly portion of the citizens and soldiers, several unpleasant circumstances having already occurred and their present location around the seminary savoring of a military interference with the municipal regulations of American citizens:

Your memorialists respectfully pray your Honor to cause the immediate removal of the troops now occupying the seminary and vicinity, beyond the limits of the city. And your memorialists as in duty bound will ever pray.

On behalf of the city council,

B. K BULLOCK, Mayor.

Judge Cradlebaugh replied:—

PROVO, March 12, 1859.

To the Honorable the Mayor and City Council of Provo:

Gentlemen—your letter of the 11th inst. has just been received. In reply to it I take occasion to say that the movement of a company of infantry to this city and their temporary location here was well considered before it was determined upon. It was a matter of necessity. There were a number of prisoners to be tried before my court; neither the Territory nor the city afforded a jail or other place of confinement for them. No manner of provision had been made for their support or sustenance, neither by the Territory nor your city. To secure these prisoners and to maintain them are duties that I owe to my office and to them.

I have adopted the only means left me of accomplishing those objects. The military company, kindly furnished by the commanding General both secure and support these prisoners. That this small force should be near the court house, or the building used as such, is not only a matter of convenience but of necessity to the court. This I will say, however, that, so soon as I can dispense with their most useful services, I shall do so.

You speak of their being here to the annoyance of the citizens of this city and intimidation of those persons having business with the District Court.

When, where, or in what manner these soldiers have annoyed or interfered with the citizens of Provo, I challenge you to show. A more quiet, orderly set of men I never saw; they have deported themselves with a propriety and decorum truly remarkable.

As to your remark about intimidation, allow me to say that good American citizens have no cause to fear American troops.

I am, gentlemen, your obedient servant.

JOHN CRADLEBAUGH.

The following is the rejoinder of the city council to Justice Cradlebaugh:

PROVO, March 15, 1859.

To the Hon. John Cradlebaugh, Associate Justice of the Supreme Court and ex-officio Judge of the 2nd Judicial District for the Territory of Utah:

Your letter of the 12th inst. is now before us in reply to the request of the mayor and city council of this city, in regard to the removal of the detachment of the U S. troops, that at your request are now quartered in this city, and are occupying a part of the building used for a court-house.

You observe that the matter of the troops being brought to this city was duly considered before it was determined upon, and that it was a matter of necessity to have them in attendance for the purpose of securing prisoners; that necessity, we understand, consisted in guarding five prisoners, two of whom, we learn, have been discharged.

Either the sheriff or municipal authorities were and are prepared to secure and safely protect any number of prisoners that there was any probability of being held in custody by your court.

You speak of our not having any place of confinement; this, we assure you, is a mistake; we have a place prepared for that purpose. And should the county or territorial officers arrest prisoners, the officers of the city or county will abundantly provide for their security, wants and necessities. There is, therefore, no necessity of the U. S. troops being stationed in and around the court-house.

Had your honor conferred for one moment with the authorities of the county or city, in regard to the care of prisoners, you would not have asked the commanding General for a detachment of troops for that purpose

Whatever may have been the object of clothing the court with a military escort, it has the most dangerous tendency; it usurps the functions of civil officers—performs the duties the law never designed for the army, and renders null and void the civil offices that have been appointed by law; it presents the judiciary to the people in the light of a military inquisition. The lives and liberties of all persons accused are jeopardized by the examination of witnesses and action of jurors under the influence of a military intimidation and espionage. It is causing the city unnecessary expense. We have been under the necessity of doubling the police force and exerting ourselves to prevent indignant citizens from doing violence to the soldiers; and this has cost us three times as much as it would to have guarded all the prisoners, aside from the unavoidable injury of detaining agriculturists from their pursuits at a season when preparations for seeding are of the utmost importance. But these are minor considerations, compared with the establishment of a military judicial administration, hitherto unknown in the annals of freedom. Should such an order of things continue, we have reason to fear that the time is not far distant when witnesses will be sworn at the point of the bayonet, and the law executed by the sword.

Perhaps your honor is not aware that those quiet orderly soldiers, of whom you speak, have been troublesome to the citizens of this city, and that several unpleasant circumstances have already occurred between the citizens and soldiers.

Is your honor aware that several soldiers have been arrested drunk in the streets, and the police not wishing to bring a stain upon your honor's escort by putting them in jail, have quietly taken them to their quarters, and delivered them to their officers? We would also call your honor's attention to a circumstance that took place on the evening of the 11th instant, when, had it not been for the interposition of the city marshal, in all probability, several persons would have been hurt, if not killed.

Is your honor aware that one of those orderly persons, of whom you speak, caught the marshal's horse by the bridle and endeavored to prevent him from quelling a row? Some of the soldiers have been caught by the city officers in the act of attempting to break into houses in the night. These are well known facts, that can be proven by many witnesses.

However much we admire the talent, experience, skill and military attainments of the officers and the bravery and discipline of the men, it must be regarded as a very degrading appreciation of their gallantry, and the high position which their military career has given them, to use them as a county jail—a walking calaboose. And we believe that all experience has proven that the introduction of soldiers into cities or villages has had a uniform tendency to produce hostile feelings.

Your honor says that 'good American citizens have no cause to fear American troops;' the gallantry of our officers, the discipline and bravery of our soldiers have rendered our armies a terror to the enemies of liberty throughout the world; but when through prejudice, political intrigue, speculative selfishness, or other causes, those gallant arms are placed in a position to intimidate American citizens, why should they not fear?

Honored sir, when our gallant army, or any portion thereof, is degraded, by any cause whatever, from that high position which the Constitution and laws have given it, as the arm of national defence, to the low station of supplanting the civil power, it must, most certainly be feared by every American citizen, not blind to the perpetuity of our national institutions. As a beginning, a single corps, highly honored for its discipline, the superior skill and scientific attainments of its officers, is placed out of its constitutional sphere to perform the duties of sheriff, marshal, or jailor, the military power then supersedes the civil, in a limited degree to be sure, but military power seldom retrogrades and jurors are controlled by them; the court follows in the wake—that bulwark of human liberty—an independent high-minded judiciary, sustained by the people, is thus annihilated—the legislative and executive departments are soon overcome, and the sword of a Julius Cæsar puts an end to the whole fabric of liberty.

We ask, your honor, why should not all good American citizens be afraid?

For these and many other reasons we beg leave respectfully to renew our request.

With high consideration and esteem, we respectfully subscribe ourselves, your most obedient servants,

B. K. BULLOCK, Mayor,
In behalf of the City Council.

We insert the following, signed by the citizens of Spanish Fork:—

To the Honorable John Cradlebaugh, Associate Justice of the Supreme Court of the United States, Judge of the 2nd Judicial District Court, Utah Territory:

WHEREAS, by information, we, the undersigned, residents of Spanish Fork precinct, Utah county, citizens of the United States, have learned that your Honor has opened a special term of court at Provo city, and that, by your request, a detachment of U. S. troops are stationed around the court house, the officers making their head quarters therein, in close connexion with the grand jury room, which to us seems an unusual thing, as peace and good order pervaded our district and, believing, that it has a direct tendency to intimidate jurors, witnesses, and other persons who have occasion to attend court, and further believing, with our forefathers, that standing armies in times of peace are dangerous to liberty, especially when placed in close proximity with the judicial bench.

We view it as a reproach upon our fidelity as citizens and more directly upon our territorial and county officers, who have been willing and are ready to faithfully discharge the duties imposed upon them and safely secure and provide for all prisoners who may be legally placed in their charge, and also to execute all orders of the court. And we beg leave respectfully to remonstrate against the intimidation of jurors, witnesses and other persons attending the district court, by the presence of a military corps, as a high-handed violation of the rights and constitutional liberties of American freemen, unprecedented in our great republic, and never tamely submitted to by the Anglo Saxon race, and which has been a dangerous experiment in the most despotic governments and can only end in the most disastrous results to all American institutions.

We regard a military despotism the most dangerous of all conceivable forms of government. As a specimen of this order of things we respectfully refer to the history of the French Republic for thirteen years after the fall of Louis XVI.

Feeling deeply for the continued welfare, peace, good order and prosperity of our common country and the perpetuity of her glorious institutions to all generations, in their primitive purity, and that the only true form of government is that emanating from the people.

We therefore respectfully, yet earnestly request your Honor to remove your military guard and let all apprehensions cease and thereby prevent the establishment of a precedent that is calculated to lead to great evils. We declare ourselves ever ready to sustain your hands in the administration of law, justice, equity and the Constitution of the United States.

We understand, in addition to the above, that several petitions from other parts of Utah county were presented to Judge Cradlebaugh in relation to his unprecedented proceedings, praying for the removal of the troops from the vicinity of the court.

[REPORTER.]

DISTRICT COURT, 2ND JUDICIAL DISTRICT.

PROVO, MONDAY, March 21, 1859 } 9 a.m.

We have been furnished with the following list of the names of those composing the Grand and Traverse Juries:—

GRAND JURORS.

JOHN RIGGS,	JAMES PACE,
WM MEEKS,	ISAAC MORLEY, jun.,
RICH'D SESSIONS,	D. D. McARTHUR,
A. G. CONOVER,	JOHN MERCER,
GEO. W. BEAN,	JESSE McCAUSLIN,
JOHN W TURNER,	JOHN SESSIONS,
M C. KINSMAN,	A P DOWDLE,
MARTIN H. PECK,	JAMES SMITH,
LOR JOHNSON,	WM A. FOLLETT,
N T. GUYMAN,	JOHN HARVEY,
WILBER J. EARL,	PHIL'R COLTON.
L. C. ZABRISKIE,	

TRAVERSE JURORS.

DUN. McARTHUR,	ROB'T T. THOMAS,
M N. CRANDALL,	RICHARD BIRD,
WM. J. STEWART,	DENNIS DORITY,
JOHN W. CURTIS,	WM. F. BUTLER,
JAMES E. HAWS,	WM. S. SEELEY,
CYRUS SANDFORD,	WM. B SESSIONS,
LOR D. HATCH,	JOHN BROWN,
WILLIAM PACE,	WILLIAM HYDE,
HENRY ZUFELT,	D. B. ROSSEN.
HARVEY CLUFF,	

Court met pursuant to adjournment.

Mr. Stout wished to know what was to be done in the case of Mr. Cazier.

The judge said he would examine one witness in the case of examination that was adjourned from Saturday, and he would dispose of that case.

Samuel Oscar was sworn and examined.

Grand jury brought into court; 19 present.

His honor asked if the foreman had any business to present.

The foreman replied, "We shall have our business, now under consideration, closed in a short time, I think."

His honor then proceeded to discharge the grand jury.

At the close of the discharge of the grand jury. Mr. Wilson, District Attorney, said:—

If the court please, as the administrative officer of the government here, I feel it my duty to state, in reply to your honor's suggestions in regard to the government, that the government desire that the crimes alleged to have been committed in this Territory shall be investigated thoroughly and promptly. The government has no other object, and can have no other desire than that the laws shall be promptly, energetically, legally and faithfully carried out and administered.

Judge Cradlebaugh remarked: I wish to call the attention of the public to a letter which I received yesterday from the commanding General. He has seen cause to send an additional number of troops here [900], and he desires that I shall state to the court that they are not here to interfere with the citizens of the Territory, unless the conduct of the citizens should make it necessary that such interference should take place, in self-defence. The commands sent over are not sent with any pretence to make an attack upon citizens, therefore none need entertain those views. The desire of the commanding General is to aid the court in the discharge of its duty, and to bring offenders to justice. The troops come here to be within reaching distance, for the purpose of enforcing the laws, and not for the purpose of violating it in any way.

I do this for the purpose of showing their object in coming to this vicinity.

The traverse jury were called, and a pane formed by writing the names upon slips of paper putting them in jury box, made for the purpose, and then drawing out twelve, who were sworn to the issue on the following indictment.—

TERRITORY OF UTAH, Second Judicial District, Provo City, Utah County. } ss. IN THE District Court of the United States in and for the Second Judicial District of the Territory of Utah, of March term, in the year of our Lord one thousand eight hundred and fifty-nine.

The grand jurors of the United States of America, empannelled, charged and sworn to inquire in and for the Second Judicial District of the Territory of Utah, upon their oath present that John Cazier, late of Juab county, in the Judicial District aforesaid, yeoman, heretofore, to wit, on the third day of February in the year of our Lord one thousand eight hundred and fifty-nine with force and arms, in the Judicial District aforesaid, and within the jurisdiction of this court, and not subject to the rules and articles of war, unlawfully, knowingly and advisedly did procure and entice William McKuee, he the said William McKuee then and there being a soldier in the service of the United States of America, aforesaid, within the Judicial District aforesaid, to desert from his service, duty and allegiance to the said United States, he the said John Cazier at the time he so procured and enticed the said William McKuee to desert as aforesaid, well knowing that the said William McKuee was then and there a soldier in the service of the said United States contrary to the form of the act of Congress in such case made and provided, and against the peace and dignity of the government of the United States of America.

ALEXANDER WILSON,
Attorney of the United States for the Territory of Utah.

{L.S.} I certify that the foregoing is a true copy of the original on file in my office this fourteenth day of March, A.D. 1859. L. N. SCOTT, Clerk 2d Jud. Dist. Court.

Messrs. Stout and Blair appeared for the defence.

The District Attorney presented the case to the jury. Stated that it was an offence against the laws of the United States, made so by statutory provision of Congress. The act upon which the bill of indictment was found was passed Jan. 12, 1812, &c., &c.

Mr. Stout opened the case for the defence, and stated that as Mr. Wilson had said what he expected to prove he would say that they expected to prove the entire innocence of the prisoner.

Captain McNiel was sworn and examined for the prosecution.

The prosecution proposed to introduce the testimony of the captured deserter as a witness for the prosecution.

Gen Blair objected on the ground that he was a convict, undergoing the punishment awarded by the sentence of a court martial.

Mr. Wilson conceded that as the witness he wished to introduce was not convicted in a court having civil jurisdiction his evidence was admissible.

After considerable discussion upon the point at issue, the court took a recess until 2 p.m.

2 P.M.

Court resumed its session.

Judge Cradlebaugh ruled that the testimony of the convict, who was under sentence of a court martial, was admissible before a jury in the case before the court.

Frederick Fauzen was then sworn: Gave evidence for the prosecution.—Cross examined by Messrs. Blair and Stout, when the prosecution closed their side of the case.

The council for the defence introduced Timothy B. Foote and Charles Sperry, who gave evidence for the defence of Cazier.—Cross-examined by Gen. Wilson.

The District Attorney opened the argument to the jury, followed by Hosea Stout, Esq.

The argument on the defence was closed by S M Blair, Esq

A. Wilson, Esq., closed on the prosecution.

The jury retired, after being instructed in the law by his honor, and after an absence of thirty minutes, returned with a verdict of "Not guilty."

Judge Cradlebaugh returned his thanks to the traverse jury for their patient attendance upon the court; informed them that the marshal would settle with them for their services, and then observed that no other cases would be tried at that term of the court; they were therefore discharged from further attendance upon the court.

Court adjourned till to-morrow morning at 10 a.m.

Discharge of the Grand Jury.

After the adjournment of the court, the reporter sent Judge Cradlebaugh a copy of his remarks on the discharge of the grand jury, and received, next evening, the following note:—

Mr. J. V. Long has my thanks for the courtesy of allowing me to see and revise his report of my remarks on yesterday.—Very respectfully, yours, &c.,
JOHN CRADLEBAUGH.

This day makes two weeks from the time you were impannelled. At that time, the court was very particular to impress upon your minds the fact that it was desirable to expedite business as speedily as possible. The court took occasion to call your attention to the difficulties under which we had to labor. It told you of the condition of the legislation; it told you of the fact that the Legislature had not provided proper means to aid the court in bringing criminals to punishment; it told you that, aside from that, that the legislation was of such a character as to embarrass the court in the discharge of its duties; and that they had given criminal jurisdiction to courts of their own creation, which by the organic act can exercise no such jurisdiction. They had sought to throw the punishment of crimes into such tribunals.

The court also called your attention to the fact that there had been, in connection with this legislation, an attempt by persons within the Territory to bring the United States Courts into disrepute with this people. It particularly called your attention to the fact that Brigham Young, the late Executive of the Territory, at the time when he was a sworn officer of the government—sworn to see that the laws were executed—had taken occasion to denounce the courts as vile and corrupt; also that he had taken occasion to denounce all attorneys and jurors of the court, and that this was done to prevent the proper and due administration of justice in the Territory.

The court felt it to be its duty to repel such slanders; that it owed it to the position it occupied and to the members of the bar, who were looked upon as honorable men, and from its association with them, it felt it to be its duty to repel such slanders, let them come from what source they might. This was done for the purpose of showing the difficulties that you and the court labored under in bringing criminals to justice.

Aside from this, the court took the unusual course of calling your attention to particular crimes—the horrible massacre at the Mountain Meadows. It told you of the murder of young Jones and his mother, and of pulling their house down over them and making that their tomb; it told you of the murder of the Parrishes and Potter, and Forbes, almost within eight of this court house. It took occasion to call names for the purpose of calling your particular attention to those crimes; the fact that they have been committed is notorious.

The court has had occasion to issue bench warrants to arrest persons connected with the Parrish murder; has had them brought before it and examined; the testimony presents an unparalleled condition of affairs. It seems that the whole community were engaged in committing that crime. Facts go to show it. There seems to be a combined effort on the part of the community to screen the murderers from the punishment due them for the murder they have committed.

I might call your attention to the fact that when officers seek to arrest persons accused of crimes they are not able to do so; the parties are screened and secreted by the community. Scarcely had the officers arrived in sight of the town of Springville before a trumpet was sounded from the walls around the town. This, no doubt, was for the purpose of giving the alarm. The officers were there to make arrests. The officers leave the town, and in a short time a trumpet sounds again from the wall for the purpose of announcing that the danger was over. Witnesses are screened; others are intimidated by persons in that community.

An officer of this court goes to Springville, meets the Bishop of the town, asks him about a certain man, for whom he has a writ, he having understood that the man was a scribe in his office. He (the Bishop) tells him that he has gone to Camp Floyd, while the fact is, the person the officer desires to find is at the time in sight in the street. We have here a Bishop lying to prevent the service of the process of this court, and aiding in preventing criminals being brought to punishment.

Such are the attempts made to prevent the administration of justice in the courts. Officers are prevented from making arrests, they are thwarted upon all points when they seek to arrest those persons who should be brought to punishment.

Such acts and conduct go to show that the community there do not desire to have criminals punished; it shows that the Parrishes and Potter were murdered by counsel, that it was done by authority; the testimony goes to show that the persons engaged in committing these murders are officers in that community, policemen, and that they have since been promoted for committing these hellish crimes.

At the commencement of this term of court, these persons were to be seen elbowing about the streets with the Bishops and other dignitaries, but now they are not to be found.

I say all the facts go to show that those offences were committed by officers in that town, and that there is a determination to cover up and to secrete the offenders.

You have had sufficient time to examine those cases; more than two days ago, you had all the testimony before you in the Parrish case and for some cause you refuse to do any thing.

Your duty is to find bills when there is sufficient testimony to satisfy you of the probability of the party's guilt. The Court has been patient with you; it has given you time; it has endeavored to be patient, that you might have ample opportunity to do your duty.

The court has no desire but to do it's duty; to punish offenders and enforce the law—it can have no other purpose or motive.

If it is the desire of this community that persons guilty of crimes shall be screened, and that high, notorious crimes shall be covered up, it will have to be done without the aid of this court.

Should my government desire such things, they must send some other person than the one who now presides in this judicial district to accomplish such purpose.

The court cares not what position persons hold, either civil or ecclesiastical, if they are guilty of crime, it will use its authority to bring the offenders to justice.

By legislation we have no jails, no means to support prisoners, no means of paying witnesses or jurors: or other officers of this court. It would seem that the whole of the legislation of this Territory was to prevent the due administration of justice.

It was these considerations that induced the court to desire you to expedite the duties devolved upon you.

The court feels that it has discharged its duty; it has furnished you every facility for discharging yours. Still, you make no report; to continue you longer in service would be wrong—the public interest would neither be promoted or benefited by it.

You are therefore discharged from further service.

The court will think of the propriety of venireing another grand jury.

For your service upon territorial business the clerk will issue you his certificates. For the time you were engaged on United States business the marshal will pay you.

If it is expected that this court is to be used by this community, as a means of protecting it against the peccadillos of Gentiles and Indians; unless this community will punish its own murderers, such expectation will not be realized. It will be used for no such purpose.

When this people come to their reason, and manifest a disposition to punish their own high offenders, it will then be time to enforce the law also for their protection. If this court cannot bring you to a proper sense of your duty, it can at least turn the savages in custody loose upon you.

A remonstrance signed by the Grand Jury, without a dissenting voice, against Judge Cradlebaugh's unprecedented course, in peremptorily and vindictively discharging them when about consummating the business before them, was presented; but we have been unable, as yet, thro' some inadvertency, to obtain a copy.

MEMORIAL AND PETITION

TO HIS EXCELLENCY ALFRED CUMMING, GOVERNOR OF THE TERRITORY OF UTAH.

SIR:—Your memorialists, citizens of Utah Territory, respectfully represent that the Honorable John Cradlebaugh, Associate Justice of the Supreme Court of the Territory of Utah and ex-officio Judge of the 2nd Judicial District, commenced holding a term of court in Provo, Utah county, U. T., on the 8th day of March, A.D 1859, by what law, as to time and place, of the United States, or of this Territory, is unknown to your memorialists, for in the statutes at large, chapter CXXIV, section 5 of "An act to amend the acts regulating the fees, costs, and other judicial expenses of the government in the States, Territories, and District of Columbia, and for other purposes," approved August 16, 1856, we find that Congress enacted "That the judges of the Supreme Court in each of the Territories, or a majority of them, shall, when assembled at their respective seats of government, fix and appoint the several times and places of holding the several courts in their respective districts, and limit the duration of the terms thereof:" which is all the law upon that point that we have been made cognizent of; and, from page 119 of No. 27, vol. VIII, of the Deseret *News*, we learn that Chief Justice D. R. Eckels and Associate Justice C. E. Sinclair, in accordance with said law, did, in August last, meet in Fillmore city, then ruled by them to be the seat of government for this Territory, and 'fix and appoint the several times and places of holding the several courts' in the three judicial districts of this Territory, fixing and appointing the time and place for the judicial district in which Judge Cradlebaugh is now holding court, as follows:—

"2d District Court will be holden at Fillmore city on the first Monday in November, by Mr. Justice Cradlebaugh," and it is obvious that the 8th of March is not the "first Monday in November," neither is Provo on the site of Fillmore city. Judges Eckels and Sinclair also limited that "each term of District Court will be for thirty days if the business shall require it;" Congress, Statutes at Large, chap. CLXVI, approved June 14, 1858, enacted "That the judges of the Supreme Court of each Territory of the United States are hereby authorized to hold court within their respective districts, in the counties wherein, by the laws of said Territories, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party: Provided, That the expenses thereof shall be paid by the Territory, or by the counties in which said courts may be held, and the United States shall in no case be chargeable therewith," and Judge Cradlebaugh cannot be holding court under this law, for he is examining 'matters and causes' 'in which the United States is a party;' and in sec. 2. chap. XLIII, Statutes at Large, approved July 4, 1840, we find "That the presiding judge of any circuit court may, at his discretion, appoint special sessions thereof, to be held at the places where the stated sessions thereof are holden;" but at such special sessions are prohibited from "trying any cause by a jury;" now were such discretion allowed a judge of any district court, which we have not found, it would still preclude the court in question, since it has both grand and petit juries in its employ.

Having thus briefly and plainly cited all the law within our knowledge, pertinent to the subject, we submit the question of the legality of the court now being held in Provo by Judge Cradlebaugh, to your Excellency, and further respectfully represent that, upon a requisition by Judge Cradlebaugh, a detachment of United States troops was marched from Camp Floyd and halted at the building provided for the accommodation of the court, and in which said Judge was at the time delivering his charge to the grand jury, and subsequently and still, so far as we know, encamped adjacent to and the officers quartered in said building, a proceeding altogether contrary to the spirit and letter of President Buchanan's late message to Congress, wherein he states, "I am happy to inform you that the Governor and other civil officers of Utah are now performing their appropriate functions without molestation. The authority of the Constitution and laws has been fully restored, and peace prevails throughout the Territory," directly contrary to an express understanding with the Peace Commissioners, as made public in Provo by Governor Powell, June 16, 1858, when he stated to some four thousand citizens then and there assembled, that "while he (President Buchanan) claims and will exercise the right to send the army wherever he may please, his object is not to make an encampment in any of your cities. Gen. Johnston told me that he did not wish his army to be stationed near a city," and contrary to any just, legal, or even necessary requirement, for, notwithstanding Judge Cradlebaugh, in his reply of March 12, 1859, to the petition of the mayor and city council of Provo for the removal of said troops, stated that they were there "to secure and support prisoners," the territorial and county officers attending court, and holding commissions from your Excellency, promptly informed the Judge that they were ready and amply able and responsible for the arrest, security, care, and forthcoming of all persons ordered to be arrested.

Troops were ordered to accompany your Excellency and other civil officers to Utah, as a posse comitatus, under the influence of statements that the territorial library and court records had been burned, a district judge intimidated upon the bench, and government officers driven from this Territory, the facts concerning which statements your own personal observation fully enabled you to make known to our nation at an early day after your arrival, thereby officially precluding, particularly since the date of the Peace Conference in June last, any requirements upon the army in Utah, save to protect the citizens, the mails, and the emigrants from molestation by the Indians within our borders, at least until resistance should have been offered to the execution of any law or the order of any court or civil officer, which, we are gratified in being able to state, has not been done.

Gov. Powell, at the time and place aforenamed, said, "The Federal Government demands nothing of you, fellow citizens, which it does not require of the inhabitants of every State and Territory in the Union, that you shall be obedient to the laws of your country, that you will respect the civil authority, and that its officers shall be received by you and enter on the discharge of their duties unmolested." Wherein have we failed in complying with those requirements to the very letter? Not in one tittle, but have gone beyond them and unresistingly borne the quartering of troops in and around a court transacting territorial business in a peaceful city amply supplied with civil officers for the fulfillment of every legal requirement. And President Buchanan, in his message before quoted from, states that "These gentlemen (Messrs. Powell and McCulloch, the Peace Commissioners) conducted themselves to my entire satisfaction, and rendered useful services in executing the humane intentions of the government. It also affords me great satisfaction to state that Governor Cumming has performed his duty in an able and conciliatory manner, and with the happiest effect."

And now, notwithstanding the humane efforts and labors of Col. Thomas L Kane and your Excellency, so highly and justly commended by the Chief Executive of our Nation, notwithstanding the President's proclamation of April 6, 1858, and the consequent results of the Peace Conference in G S. L City in June last, so satisfactory to both parties and the agreements of which have been so scrupulously observed by Utah, could it have been presumed that a district judge would go back of all these facts, so widely known and so highly appreciated by every patriotic lover of his country and humanity, and take advantage of instructions to Brevet Brigadier General W. S. Harney, bearing the ancient date, "New York, June 29, 1857," and call upon the military to surround his court and jury rooms with bayonets? Yet such is the fact, when in those same instructions, and following the authority above alluded to, and which, perhaps, has been neglected to be rescinded, we read, "while you (Gen. Harney) are not to be and cannot be subjected to the orders, strictly speaking, of the Governor, you will be responsible for a jealous, harmonious and thorough co-operation with him, or to frequent and full consultation, and will conform your action to his requests and views in all cases where your military judgment and prudence do not forbid, nor compel you to modify, in execution, the movements he may suggest."

It thus appears by those very instructions, under which a district judge, if they are not already rescinded, claims authority for making a requisition upon Gen. Johnston for troops, that your Excellency, as was very properly considered, has the superior authority in counseling their movements in the capacity of a posse comitatus.

But, notwithstanding all these facts, and contrary to those principles of equity and justice that should characterize a court, it has pleased Judge Cradlebaugh to set aside, in several instances, the civil authorities and, without the least valid reason known to us, to employ federal troops to execute the orders of his court, thereby clearly indicating on his part, so far as we can discern, an utter disregard of the latest expressed views and policy of the Administration concerning Utah, and the views and policy of your Excellency and all good citizens, and a settled purpose, for some cause, to force on angry collision between the citizens and troops, which is well known is not so difficult to accomplish in the best ordered town or city in the Union, especially when one class is caused to illegally supplant, taunt, and oppress the other.

That the peaceful policy of the Administration and of your Excellency be not subverted by the vile schemes of such sutlers, speculators, camp-followers and gamblers as plot evil and bloodshed for gain; that citizens be not imposed upon in any of their rights, nor when subpenaed as witnesses treacherously arrested by bench warrants and unfed and without bedding, guarded by troops, nor jurors to attend to their duties under the bristling of bayonets; that the laws be respected and magnified; that the citizens be not goaded until they cannot sustain their anger, and thus forego for a time the happy results of the labors and toils of so many patriots and philanthropists, and cause the riotous to exult with joy; and that your Excellency "take care that the laws be faithfully executed,"—we, your memorialists, citizens of the United States in the Territory of Utah, respectfully petition your Excellency to use all the influence and authority of your official position as Governor of this Territory to remove all government troops from in and around the court now in session in the city of Provo and from in and around said city, and to prevent any troops being located in or infringingly near any of our thickly settled villages, towns, or cities, and to fairly and fully, at your earliest convenience, report to the proper Department in Washington city the official proceedings of Judge John Cradlebaugh in the 2nd Judicial District of this Territory, and, for such wise, loyal, and just action by your Excellency, your memorialists and petitioners will ever pray.

UTAH TERRITORY, March 22, 1859.

Copies of the foregoing Memorial and Petition to His Excellency Alfred Cumming, Governor, have been circulated throughout the Territory, and signed by the people generally; one of which contained the names of about three thousand five hundred citizens, was presented to him on the 25th inst.

After McDonald, Kearns and Bullock were arrested and placed in custody of the military, the Sheriff of Utah county, Wm. M. Well, Esq., as we are informed, told Judge Cradlebaugh that he could take charge of all prisoners accused of offences against the laws of this Territory—The Judge asked him if he had a sufficient jail. The Sheriff replied that he had, and that if his bonds were not sufficient, he could increase them to any amount that might be required. Judge Cradlebaugh replied that he would consult Judge Sinclair on that subject.

The prisoners being continued in the custody of the soldiery and not comfortably provided for requests were made to the court and to the U. S. marshal by their attorneys and others, that they might be taken to some place where they would be more comfortable, and the answer received was that "they could not be kept in any place excepting in camp." Some blankets and food were asked for, as the prisoners were in want of both. The U. S. marshal (Dotson) replied that they could have neither, "unless they furnished themselves."

If the circumstances above occurred as related, as there is little room for doubt, they certainly place the court and its officers in no enviable position.

BRUTAL ASSAULT.—About 5 p.m. of the 22d inst., an assault was made upon Howard Spencer by a non-commissioned officer at the head of a detachment of U. S. troops. The officer struck Spencer with his gun, fracturing the skull a little above the right ear. It appears, from what we have learned, that the difficulty occurred about the occupation of, a house and corral in the north part of Rush valley, near the line of the military reserve, and which the proprietors, Spencer, Little & Co. had previously been peremptorily ordered by the detachment to vacate. We have not yet ascertained the particulars sufficiently satisfactory to publish, but shall give the full facts when we learn them. Through the prompt and kind attendance of a surgeon of the army (whose name we regret not having received), the fractured portion of the skull was carefully and skillfully replaced, and we hope Mr. Spencer is beyond danger. He is, however, very feeble and as yet unable to relate the circumstances concerning the unfortunate affair.